

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

XOOM ENERGY, LLC and XOOM ENERGY
NEW YORK, LLC,

Defendants.

No. 18 Civ. 2949 (ARR) (JAM)

**DECLARATION OF MICHAEL D. MATTHEWS, JR. IN SUPPORT OF XOOM'S
OPPOSITION TO PLAINTIFF'S MOTION *IN LIMINE***

Michael D. Matthews, Jr., under penalty of perjury, declares as follows:

I am a partner of the law firm McDowell Hetherington LLP, attorneys for Defendants XOOM Energy, LLC and XOOM Energy New York, LLC. I submit this Declaration in support of XOOM'S Opposition to Plaintiff's Motion *in Limine*.

1. Annexed hereto as **Exhibit A-1** is the Amended Expert Report of Seabron Adamson, dated May 10, 2024, without attachments.

2. Annexed hereto as **Exhibit A-2** is a true and correct copy relevant excerpts from the deposition of Jason Loehde dated July 27, 2022.

3. Annexed hereto as **Exhibit A-3** is a true and correct copy of relevant excerpts from the deposition of Ryan Park dated July 22, 2022.

4. Annexed hereto as **Exhibit A-4** is a true and correct copy of relevant excerpts from Jason Loehde's 30(b)(6) deposition dated July 28, 2022.

5. Annexed hereto as **Exhibit A-5** is a true and correct copy of relevant excerpts from

the deposition of David Coleman dated November 16, 2022.

6. Annexed hereto as **Exhibit A-6** is a true and correct copy of is a true and correct copy of XOOM Energy, LLC and XOOM Energy New York, LLC Supplemental Objections and Responses to Plaintiffs' First Set of Requests for Admission served on December 8, 2021.

7. Annexed hereto as **Exhibit A-7** is a true and correct copy of Jason Loehde's Declaration in Support of Defendant's Motion to Decertify the Class dated March 1, 2024, without its annexed Exhibits.

8. Annexed hereto as **Exhibit A-8** is a true and correct copy of Expert Report of David Colemand updated on October 31, 2022.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 10, 2024.

A handwritten signature in black ink, appearing to read "Michael D. Matthews, Jr.", written over a horizontal line.

Michael D. Matthews, Jr., Esq.